

REMARKS

This Amendment is responsive to the Office Action mailed May 18, 2007. The Action considered claims 13-25, claims 26-61 having been withdrawn from consideration as directed to a non-elected invention. With this Amendment, 14, 16, 18, 21, 23, and 25 are canceled, and claims 13, 20, 22, and 24 are amended, leaving claims 13, 15, 17, 19, 20, 22, and 24 pending and under consideration.

Restriction Requirement

The Office Action makes final the Restriction Requirement, which Applicants traversed in the response filed February 28, 2007. Applicants respectfully request reconsideration of the Restriction Requirement, and at the very least, rejoinder of withdrawn claims that depend from, and include all of the limitations of, any allowable claims.

Specification

The Office Action objects to the specification for referring to two Example 6s, but no Example 5. In response, Applicants have amended the specification to change the first Example 6 to Example 5. Applicants respectfully request withdrawal of the objection.

Drawings

The Office Action objects to Figures 8-10 because the Brief Description of the Figures in the specification disagrees with the actual Figures. In response, Applicants respectfully note that in a Supplemental Preliminary Amendment filed September 12, 2005, the Brief Description of the Figures was amended to agree with the drawings. Applicants respectfully request withdrawal of the drawing objection.

Claim Objections

The Office Action objects to claim 24, as it lacks a period at its end. In response, Applicants have amended the claim to add the required punctuation.

Claim Rejections – 35 U.S.C. § 101

The Office Action rejects claims 13 and 14 under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. In response, Applicants have amended claim 13 to recite “isolated porcine uroplakin II gene promoter.” Applicants respectfully request withdrawal of the rejection.

Claim Rejections – 35 U.S.C. § 112, First Paragraph

The Office Action rejects claims 14, 16, 18, 21, 23, and 25 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. In response, Applicants respectfully note that claims 14, 16, 18, 21, 23, and 25 have been canceled with this Amendment, and respectfully request withdrawal of the rejection.

The Office Action also rejects claim 19 under 35 U.S.C. § 112, first paragraph, as allegedly failing to satisfy the enablement requirement. The Examiner notes that while a deposit has been made, the required statement that “all restrictions on the availability of the deposited materials will be irrevocably removed upon the granting of a patent on the instant application” has not been made. In response, Applicants hereby certify that all restrictions on the availability of the deposited materials will be irrevocably removed upon the granting of a patent on the instant application.

Claim Rejections – 35 U.S.C. § 112, Second Paragraph

The Office Action rejects claims 20-25 under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. In particular, the Office Action takes issue with the recitation of “a WPRE of SEQ ID NO: 7” in claims 22-24 and “*an* insulator sequence of SEQ ID NO:6” in claims 20, 21, 24, and 25. In response, while Applicants submit that the metes and bounds of the claims would be clear to one of ordinary skill in the art, Applicants note that all instances of “an” and “a” in claims 20, 22, and 24 have been replaced with “the” by the present amendment. Applicants respectfully request withdrawal of the rejection.

Claim Rejections – 35 U.S.C. § 102

The Office Action rejects claims 13 and 14 under 35 U.S.C. § 102(a) as allegedly anticipated by Kwon et al. (Biochemical and Biophysical Research Communications, 2002, 293: 862-869). The Action states that the claims are not limited to “the” base sequence of SEQ ID NO: 1, but are interpreted as a promoter having “a” base sequence of SEQ ID NO: 1. In other words, the Office Action states, any nucleotide sequence within SEQ ID NO: 1, which is a porcine uroplakin II promoter, anticipates the claims.

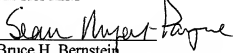
Initially, Applicants respectfully submit that the Action’s interpretation of claim 1, to encompass *any* nucleotide sequence *within* SEQ ID NO: 1, which is a porcine uroplakin II promoter, is inconsistent with canons of claim construction, not to mention the specification. Regardless, Applicants have amended the claim in the present amendment to make even more clear that the claim requires *the* sequence recited in the claim. In view of this amendment and the cancellation of claim 14, Applicants respectfully request withdrawal of the rejection.

Claim Rejections – 35 U.S.C. § 103

The Office Action rejects claims 15-18 under 35 U.S.C. § 103(a) as allegedly unpatentable over Kwon et al. (relied upon for the rejection explained above) in view of Sun (U.S. Patent No. 6,339,183). In response, Applicants respectfully note that claims 16 and 18 have been canceled, leaving claims 15 and 17 pending. Applicants further note that claims 15 and 17 depend from claim 13, and are therefore, novel and nonobvious for at least the same reasons as claim 13. Applicants respectfully request withdrawal of the rejections of claims 15 and 17.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the claims are in condition for allowance. Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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